

The 24th September, 1994

No. 14/13/87-6Lab./743.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal-cum-Labour Court, Hisar in respect of the dispute between the workman and the management Chief Engineer, P.W.D., Public Health, Haryana Chandigarh *versus* Balwan Singh.

BEFORE SHRI B. R. VOHRA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, HISAR.

Reference No 303 of 90.

Date of receipt : 4-9-89

Date of decision : 4-10-94.

SHRI BALWAN SINGH, S/O SURJA RAM, C/O MAZDOOR EKTA UNION, HISAR .. Applicant

versus

1 CHIEF ENGINEER, PWD (PUBLIC HEALTH), HARYANA, CHANDIGARH.

2. EXECUTIVE ENGINEER, PUBLIC HEALTH, DIVISION NO. 1, SIRSA .. Respondent Mgt.

Present.

Shri T.C. Gupta, for the workman.

Shri Sita Ram, ADA for management

AWARD

In exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (for short, 'the Act') the Governor of Haryana referred the following dispute between Balwan Singh and the above mentioned management for adjudication to this Court,—*vide* Labour Department letter No Hsr-212-89/37089-95, dated 28th August, 1989 :—

Whether services of Balwan Singh were termination or he left the job himself? In either event to what relief is he entitled?

2. According to the workman, he was appointed by the management as Helper on 8th November, 1987, but he was removed from the job in July, 1988 without giving him any notice and without serving him any charge sheet. The workman has therefore pleaded that the termination of his services amounted to 'retrenchment' as defined in Section 2(oo) of the Act, as the provisions of Sections 25-F and 25-G were not complied with. He, therefore, prayed for reinstatement with full back wages and other consequential benefits.

3. The management, in its written statement, pleaded that the applicant was appointed on 9th November, 1987 and that his services were hired to meet the contingency work-load for a limited period and the muster roll of the workman was closed as soon as the contingency work load was completed. The management, therefore, pleaded that the present case was covered under Section 2(oo) (bb) of the Act and was not "retrenchment" as defined in the Act. The management also pleaded that the workman has worked for 212 days in all, as detailed in para-1 of the written statement on merits. Several preliminary objections were also raised as they are reflected in the following issues framed on 8th January, 1991 by my learned predecessor :—

1. As per terms of reference.
2. Whether this Court has no jurisdiction?
3. Whether the claim is not maintainable as alleged in preliminary objections No. 1,2,3. & 5?
4. Relief.

4. The parties led evidence in support of their rival claims. I have heard Shri T.C. Gupta, A.R. of the workman and Shri Sita Ram, ADA on behalf of the management and have gone through the case file. My findings on the above issues are as under :—

Issue No. 1 :

5. Balwan Singh, who appeared is WW-1 has deposed that he was appointed on 8th November 1987 by the management and that he was removed from the job in the end of July, 1988 without serving him and notice or paying him retrenchment compensation. He also stated that in the month of July, 1988 although he actually worked, but in the record, he was shown as Bhola and wages were paid in the name of Bhola Ram. He adduced in evidence copy of muster rolls Ex. W-2 to Ex. W-9. Copy of affidavit Ex. W-1, presented before the Labour Commissioner, was also placed on file.

6. The management examined Shri R.P. Garg, SDO, MW-1 and according to him, the workman, who was appointed on 9th November, 1987 on daily wages, left the job at his own after 30th June, 1988. According to him, the workman had worked for 212 days as detailed in Ex. M-1.

7. When the details of working days given in Ex M-1 are scrutinised, it would be seen that the workman has worked for 212 days from 9th November, 1987 to 30th June, 1988. So far as the plea of Balwan Singh, WW-1 that he worked during July, 1988 also and that wages were entered and paid in the name of Bhola Ram, is concerned, the said plea has to be rejected as being beyond pleadings, because it was neither pleaded so in the demand notice, nor in the claim statement and this plea of the workman has to be rejected, more so, when it was never put to Shri R.P. Garg SDO, in his cross-examination. Copies of muster rolls, produced by the workman, also do not advance the claim of the workman any further. It, therefore, stands established that the working days of the workman did not exceed 212 days and as such, provisions of Section 25-F of the Act were not attracted in this case and the management was not required to give him any notice or retrenchment compensation. The termination of services of the workman, therefore, can not be said to be illegal. Though the workman has claimed the violation of Section 25-G of the Act, but there is not an iota of evidence on the file to prove the said plea. It, therefore, cannot be said that provisions of Section 25-C of the Act were violated by the management, as alleged.

8. In the light of discussion above, I hold that the termination of services of the workman was justified and in order. There is no evidence that the workman himself abandoned the job. This issue is, therefore, answered accordingly.

Issue No. 2 & 3 :

9. Both these issues were not pressed by the A.R. of the management and were conceded to by him during arguments. Both these issues are, therefore, answered against the management.

Issue No. 4-Relief :

10. In view of my findings on the above issues, the termination of services of the petitioner is held justified and in order and he is not entitled to any relief. The reference is answered accordingly, with no order as to costs.

B. R. VOHRA,

The : 4th October, 1994

Presiding Officer,
Industrial Tribunal-cum-Labour
Court, Hisar.

Endorsement No. 2217, dated 6th October, 1994.

A copy, with spare copy, is forwarded to the Financial Commissioner and Secretary to Government, Haryana, Labour and Employment Department, Chandigarh for necessary action.

B. R. VOHRA,

Presiding Officer,
Industrial Tribunal-cum-
Labour Court, Hisar.